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Attorneys for Plaintiff
 PACIFIC COAST BUILDING PRODUCTS, INC.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

PACIFIC COAST BUILDING PRODUCTS, INC., a California corporation,)	CASE NO.: C 05-04976 PJH
)	
Plaintiff,)	STIPULATION AND ORDER
)	DISMISSING WITHOUT
v.)	PREJUDICE THE THIRD CAUSE OF
)	ACTION IN PACIFIC COAST'S
AIU INSURANCE COMPANY, a New York corporation, et al.,)	SECOND AMENDED COMPLAINT
)	
Defendants.)	

STIPULATION: The undersigned counsel for plaintiff Pacific Coast Building Products, Inc. ("Pacific Coast") and defendant AIU Insurance Company ("AIU") stipulate as follows.

On October 31, 2006, the Court issued an order granting AIU's motion for partial summary judgment and denying Pacific Coast's motion for partial summary judgment. The Court granted AIU's motion, which sought summary judgment in favor of AIU as to the First and Second Causes of Action (both for breach of insurance contract) asserted in Pacific Coast's Second Amended Complaint. As a result of the Court's order Pacific Coast cannot proceed and/or prevail on its Third Cause of Action -- for breach of the implied covenant of good faith and fair dealing, which is predicated on a breach of the insurance contract -- unless and until the Court's order is reversed on appeal. Thus, there is no practical

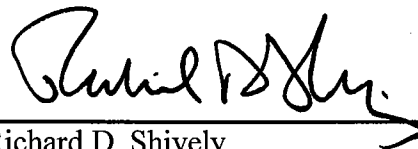
1 reason for Pacific Coast to continue to pursue the Third Cause of Action at this time.

2 Therefore, Pacific Coast and AIU stipulate that the Third Cause of Action may be dismissed
3 without prejudice.

4 DATED: December 11, 2006

PILLSBURY & LEVINSON, LLP

5
6 By



Richard D. Shively

Attorneys for Plaintiff

PACIFIC COAST BUILDING PRODUCTS, INC.

9
10 DATED: December __, 2006

MCCURDY & FULLER LLP

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12 By

Kevin G. McCurdy

Attorneys for Defendant

AIU INSURANCE COMPANY

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16 **ORDER:** For the reasons set forth in the parties' stipulation above, the Court orders that the Third
17 Cause of Action in Pacific Coast's Second Amended Complaint is hereby dismissed without prejudice.

18
19
20 DATED: December __, 2006

21 The Honorable Phyllis J. Hamilton
22 UNITED STATES DISTRICT COURT
23 NORTHERN DISTRICT OF CALIFORNIA
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4 DATED: December ___, 2006

PILLSBURY & LEVINSON, LLP

6 By _____

7 Richard D. Shively

8 Attorneys for Plaintiff

PACIFIC COAST BUILDING PRODUCTS, INC.

9
10 DATED: December 9, 2006

MCCURDY & FULLER LLP

12 By _____

13 *Kevin G. McCurdy*

14 Kevin G. McCurdy

15 Attorneys for Defendant

AIU INSURANCE COMPANY

16 **ORDER:** For the reasons set forth in the parties' stipulation above, the Court orders that the Third
17 Cause of Action in Pacific Coast's Second Amended Complaint is hereby dismissed without prejudice.

18
19 DATED: December ¹³ ___, 2006

